

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

JAN 18 2006

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY BS DEPUTY

TERRY GENE CAREY,

Petitioner,

vs.

WARDEN MILLER et al.,

Respondents.

No. CIV-05-1495-W

**ORDER**

On December 28, 2005, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this matter and recommended that the Court transfer this action pursuant to title 28, section 2241(d) of the United States Code to the United States District Court for the Northern District of Oklahoma. The parties were advised of their right to object, but neither the respondents nor petitioner Terry Gene Carey filed an objection to the Report and Recommendation.

Upon de novo review of the record, the Court concurs with Magistrate Judge Bacharach's suggested disposition of this matter. Section 2241(d) requires petitions for writs of habeas corpus filed by state prisoners under title 28, section 2254 of the United States Code be filed "in the district court for the district wherein . . . [the petitioner] is in custody or in the district court for the district within which the State court was held which convicted and sentenced him . . . ." 28 U.S.C. § 2241(d).

The District Court of Delaware County, Oklahoma, is the court which imposed the judgment of conviction and sentence which Carey is challenging, and that state court is located within the territorial jurisdiction of the Northern District of Oklahoma. Carey is


incarcerated at the Lawton Correctional Facility, which is located in the Western District of Oklahoma. Accordingly, pursuant to section 2241(d), the United States District Court for the Northern District of Oklahoma has concurrent jurisdiction with this Court to entertain the Petition for a Writ of Habeas Corpus ("Petition") filed by Carey.

In the absence of any objection and because relevant factors weigh in support of a transfer, the Court

(1) ADOPTS the Report and Recommendation issued on December 28, 2005; and

(2) DIRECTS the Clerk of the Court to transfer Carey's Petition file-stamped on December 22, 2005, to the United States District Court for the Northern District of Oklahoma.

ENTERED this 18<sup>th</sup> day of January, 2006.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE